

1 E. The average earnings per job in Santa Fe County is 23% below the national average
2 and the cost of living is 18 % higher than the national average;

3 F. Housing costs in Santa Fe are much higher than in most other parts of New Mexico,
4 and low income workers must therefore spend a disproportionate percentage of their income
5 sheltering themselves and their families;

6 G. Livable wages also benefit employers and the economy as a whole by improving
7 employee performance, reducing employee turnover, lowering absenteeism, and thereby improving
8 productivity and the quality of the services provided by employees;

9 H. When businesses do not pay a livable wage, the community bears the cost in the
10 form of increased demand for taxpayer-funded social services including homeless shelters, soup
11 kitchens and healthcare for the uninsured. Coupled with high real estate values, low wages reduce
12 the ability of low- and moderate-income residents to access affordable housing. As a result, the
13 city has had to invest significant tax dollars to support affordable housing including funding to
14 non-profit organizations, purchasing land, building infrastructure and waiving fees. In addition,
15 the city has allocated significant tax dollars to operate after school and summer recreation
16 programs and to support non-profit organizations offering an array of human services and
17 children and youth services, all of which are needed by very low-income residents and their
18 families;

19 I. It is in the public interest to require employers benefiting from city actions and
20 funding, and from the opportunity to do business in the city, to pay employees a minimum wage, a
21 “living wage”, adequate to meet the basic needs of living in Santa Fe;

22 J. According to the 2000 Census, approximately 12.3% of the Santa Fe community
23 lives below the poverty level; and

24 K. According to the New Mexico department of labor, 23.5% of Santa Feans who are
25 employed in the non-governmental sector earn hourly wages of \$10.50 per hour or less.

1 **Section 2. Section 28-1.3 SFCC 1987 (being Ord. #2002-13, §3) is amended to**
2 **read:**

3 **28-1.3 Authority of the City of Santa Fe.**

4 This Living Wage Ordinance is adopted pursuant to the general welfare and police
5 powers conferred upon the city of Santa Fe by §3-17-1 et seq. and §3-18-1 et seq. NMSA 1978,
6 pursuant to the powers conferred upon the city of Santa Fe by New Mexico Constitution, Article
7 X §§6(D) and 6(E) and the Municipal Charter Act, §3-15-1 et seq. NMSA 1978, which have been
8 exercised by the city's adoption of its "Santa Fe Municipal Charter".

9 **Section 3. Section 28-1.4 SFCC 1987 (being Ord. #2002-13, §4) is amended to**
10 **read:**

11 **28-1.4 Purpose.** The purposes of this ordinance are:

12 A. To have the city of Santa Fe set an example for the public and private sectors by
13 paying its employees a minimum wage adequate to meet the basic needs of living in Santa Fe.

14 B. To raise the income of low-income employees of employers who contract with
15 the city, receive grants, subsidies or other benefits from the city or benefit from the opportunity to
16 do business in Santa Fe.

17 **Section 4. Section 28-1.5 SFCC 1987 (being Ord. #2002-13, §5) is amended to**
18 **read:**

19 **28-1.5 Minimum Wage Payment Requirements.**

20 A. The following shall pay the minimum wage:

21 (1) The city of Santa Fe shall pay the minimum wage to all full-time
22 permanent workers employed by the city. However, the provisions of this ordinance are
23 expressly limited by and subject to future union negotiations in compliance with the Fair
24 Labor Standards Act and subsequent appropriations by the governing body in compliance
25 with the Bateman Act;

1 (2) Contractors for the city, who employ more than twenty-five (25) workers
2 that have a contract requiring the performance of a service including construction
3 services but excluding purchases of goods, shall pay the minimum wage to their workers
4 and subcontractors performing work under the contract if the total contract amount with
5 the city is, or by way of amendment becomes, equal to or greater than \$30,000. This
6 provision shall not apply to leases of city real property or to contractors who are non-
7 profit organizations;

8 (3) Businesses receiving assistance relating to economic development in the
9 form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of
10 \$25,000 shall pay the minimum wage to those employed by such entity for the duration
11 of the city grant or subsidy; and

12 (4) Businesses required to have a business license or business registration
13 from the city of Santa Fe who, during any given month, have twenty-five (25) or more
14 workers, or in the case of not-for-profit organizations, who have twenty-five (25) or more
15 workers, shall pay the minimum wage to their workers for all hours worked within the
16 city of Santa Fe that month. For purposes of this paragraph, worker shall not include any
17 person who is related by blood or by marriage to any person who may have or possess
18 any ownership interest in the business that employs them. For purposes of calculating the
19 number of workers under this ordinance and identifying persons entitled to be paid the
20 minimum wage, all individuals employed by or providing work to the business for
21 compensation, whether on a part-time, full-time or temporary basis, during a given month
22 shall be counted as a worker. This definition shall include contingent or contracted
23 workers, and persons made available to work through the services of a temporary
24 services, staffing or employment agency or similar entity. However, interns working for a
25 business for academic credit in connection with a course of study at an accredited school,

1 college or university or persons working for an accredited school, college or university
2 while also attending that school, college or university, or persons working for a business
3 in connection with a court-ordered community service program such as teen court or
4 workers who are in an apprenticeship program in a 501C(3) organization (such as the
5 Santa Fe Opera) shall not be counted as a worker for such purposes.

6 B. Beginning January 1, 2004, the minimum wage shall be an hourly rate of \$8.50.
7 In computing the wage paid for purposes of determining compliance with the minimum wage, the
8 value of health benefits and childcare shall be considered as an element of wages. On January 1,
9 2006, the minimum wage shall be increased to an hourly rate of \$9.50. On January 1, 2008, the
10 minimum wage shall be increased to an hourly rate of \$10.50. Beginning January 1, 2009, and
11 each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to
12 the previous year's increase, if any, in the consumer price index for the western region for urban
13 wage earners and clerical workers. For workers who customarily receive more than \$100 per
14 month in tips or commissions, any tips or commissions received and retained by a worker shall be
15 counted as wages and credited towards satisfaction of the minimum wage provided that, for
16 tipped workers, all tips received by such workers are retained by the workers, except that the
17 pooling of tips among workers shall be permitted.

18 C. Non-profit organizations whose primary source of funds is from Medicaid
19 waivers are exempt.

20 **Section 5. Section 28-1.6 SFCC 1987 (being Ord. #2002-13, §6) is amended to**
21 **read:**

22 **28-1.6 Prohibitions Against Retaliation and Circumvention.**

23 A. It shall be unlawful for any business, employer or employer's agent or
24 representative to take any action against an individual in retaliation for the exercise of or
25 communication of information regarding rights under this ordinance. This section shall also apply

1 to any individual that mistakenly, but in good faith, alleges noncompliance with this ordinance.

2 B. Taking adverse action against an individual within sixty days of the individual's
3 assertion of or communication of information regarding rights shall raise a rebuttable
4 presumption of having done so in retaliation for the assertion of rights.

5 C. It shall be unlawful for any business or employer to intentionally circumvent the
6 requirements of this ordinance by contracting portions of its operation or leasing portions of its
7 property.

8 **Section 6. Section 28-1.8 SFCC 1987 (being Ord. # 2002-13, §8) is repealed and**
9 **a new Section 28-1.8 SFCC 1987 is ordained to read:**

10 **28-1.8 [NEW MATERIAL.] Enforcement; Remedies.**

11 A. *Administrative Enforcement.* The city manager, or his/her designee, is authorized,
12 as appropriate and as resources permit, to enforce this ordinance. The city manager is authorized
13 to investigate possible violations of this ordinance. Where the city manager, after a proceeding
14 that affords a suspected violator due process, concludes that a violation has occurred, the city
15 manager may issue orders to the employer appropriate to effectuate the complaining person's
16 rights, including but not limited to back pay and reinstatement. The city manager also has the
17 power to order termination of any and all economic benefit derived by any offending party from
18 the city and has the power to revoke the employer's business license or registration.

19 B. *Criminal Penalty.* A person violating this ordinance shall be guilty of a
20 misdemeanor and, upon conviction, for each offense may be subject to fines and imprisonment as
21 set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this ordinance
22 shall be guilty of a separate offense for each day or portion thereof and for each worker or person
23 as to which any such violation occurred.

24 C. *Other Remedies.* The city, any individual aggrieved by a violation of this
25 ordinance, or any entity the members of which have been aggrieved by a violation of this

1 ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate
2 or remedy any violation of this ordinance and, upon prevailing, shall be entitled to such legal or
3 equitable relief as may be appropriate to remedy the violation including, without limitation,
4 reinstatement, the payment of any wages due and an additional amount as liquidated damages
5 equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and
6 costs.

7 D. *Nonexclusive Remedies and Penalties.* The remedies provided in this section are
8 not exclusive, and nothing in this ordinance shall preclude any person from seeking any other
9 remedies, penalties, or relief provided by law.

10 **Section 7. Section 28-1.10 SFCC 1987 (being Ord. #2002-13, §10) is amended to**
11 **read:**

12 **28-1.10 Severability.**

13 The requirements and provisions of this ordinance and their parts, subparts and clauses
14 are severable. In the event that any requirement, provision, part, subpart or clause of this
15 ordinance, or the application thereof to any person or circumstance, is held by a court of
16 competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that
17 the remainder of the ordinance be enforced to the maximum extent possible consistent with the
18 governing body's purpose of ensuring a living wage for persons covered by the ordinance.

19 **Section 8. Section 28-1.11 SFCC 1987 (being Ord. #2002-13, §11) is repealed**
20 **and a new section is ordained to read:**

21 **28-1.11 [NEW MATERIAL.] Notice; Posting; and Publication.**

22 Any business subject to the provisions of this ordinance shall as a condition to obtaining
23 and holding a city of Santa Fe business license or registration, post and display in a prominent
24 location next to its business license or registration on the business premises a notice, in English
25 and Spanish, that the business is in compliance with the provisions of this ordinance and in

1 particular post the text of Sections 28-1.5, 28-1.6 and 28-1.8 SFCC 1987. Failure to comply with
2 this section shall be construed a violation of this ordinance and, in addition, shall be considered
3 grounds for suspension, revocation, or termination of the business license or registration.

4 **Section 9. Section 28-1.12 (being Ord. # 2002-13, §12) is repealed and a new**
5 **Section 28-1.12 SFCC 1987 is ordained to read:**

6 **28-1.12 [NEW MATERIAL.] Living Wage Review.**

7 The city will conduct a review of this ordinance on or before July 1, 2005. In conducting
8 said review the governing body may, at its discretion and pursuant to a duly-adopted resolution,
9 appoint an ad hoc committee to advise and assist in making recommendations regarding this
10 ordinance and to investigate the economic and social effects of this ordinance on Santa Fe. The
11 city will contract with an independent third party to develop an evaluation that will generate
12 objective measures on the effect of the Living Wage Ordinance on the health, security, and
13 livelihood of Santa Feans by March 31, 2003. Data necessary for such an evaluation on Santa Fe
14 city businesses will be compiled and presented to the governing body for their review on or
15 before July 1, 2003. In compiling the data, consideration should be given to potential impacts on
16 youth employment and possible recommendations that might prevent unforeseen consequences
17 hurting children in the community.

18 PASSED, APPROVED and ADOPTED this 26th day of February, 2003.